

4 *Surface Mining Application*

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SUBJECT: Procedure for Review of Surface Mining Permit (MR-4)

DATE: January 1997 Revised: January 15, 2002

Applicants are encouraged to meet with the regional office staff to discuss the proposed operations, especially those items which are time consuming, i.e., baseline water samples, drill holes, acid base accounting locations, etc. Applications which contain complete and accurate information will minimize the review time.

APPLICANT:

- Submit one original and three copies of application to appropriate DEP regional office. If joint application (*SMA and NPDES*), one additional copy is submitted.
- Filing fee (made payable to WVDEP): \$1,000 for each SMA number
- Reclamation Bond
- Proof of notification to residents living on property contiguous to proposed permit area. Notifications shall be by certified mail before the first day of public notice.
- Proof of advertisement
- Wildlife Lands Inquiry Response
- Ensure a copy of application is made available for public review in the county clerk's office where the mining activity is to take place. Applicant is also responsible for revisions to this copy of the application as long as it is on public review and for retrieval from county clerk's office after end of comment period.

DEP:

- Permit Supervisor assigns the review of application to Permit Review Team
- Within five (5) working days of receipt, administrative review of application shall be conducted by the Permit Review Team and a decision to either:
 - Issue SMA File Number; or
 - Corrections are prepared and applicant is notified in writing.
- Within 10 days of receipt of application, certain agencies must be notified if valley fills is involved
- When SMA Number is issued:
 - applicant is notified in writing to begin advertisement;
 - copy of application is made available for public review in regional office and county courthouse where operation is located;
 - notifications to affected agencies are prepared and mailed;

- Part I of MR-4 is forwarded to Headquarters to be entered into AVS
- A preinspection is conducted within two (2) weeks of SMA approval
- Division of Labor “DOL” and Worker’s Compensation are notified - Responses that applicant is “in compliance” is required prior to issuance
- Decision: The following items must be completed and included with original application and forwarded to Headquarters:
 - Permit (MR-2) and Facts and Findings (*Prepare Facts and Findings Blue Book in a 3-ring binder with tabbed sheets labeled to correspond with the Facts and Findings Checklist. The appropriate information will be behind the appropriate tab.*)
 - CHIA
 - Applicant’s Certification of Application must be dated within past 30 days
 - Recommendations for issuance or denial

SUBJECT: Procedure for Conducting Field Pre-Inspection for SMA

DATE: November 1995

Pre-inspections are to be considered a tool to familiarize the OMR Permit Review Team with all aspects of the proposed operation and to associate the application with the actual site conditions.

DEP:

The Permit Supervisor shall schedule and notify the following DEP and applicant representatives of the pre-inspection:

- Permit Review Team Leader
- I & E Inspector and/or Supervisor
- Applicant (*someone with authority to revise application*)
- Consultant
- Other affected agencies

OMR review staff shall review application in sufficient detail (*mining plan, reclamation plan, etc.*) **prior** to the pre-inspection and be prepared to discuss the proposed operation and any potential problems which have been identified.

The Permit Review Team Leader shall record notes during the pre-inspection and complete a Pre-Inspection Narrative documenting all significant questions, concerns, changes or features which need to be considered for final sign-off and/ final decision of an application. Cameras and/or video recorders may be utilized. When disagreements between the Permit Review Team and the applicant occur and are unresolved during the pre-inspection process, the Permit Review Team Leader should document the situation in writing to the Permit Supervisor, who will take the necessary actions to resolve the disagreements.

APPLICANT:

The following should be completed by the applicant or their representative **prior** to the pre-inspection:

- The approximate centerline of all proposed new haulage and access roads shall be flagged at intervals small enough to accurately depict the roadway
- All proposed drainage structures (*i.e. ponds*) shall be located and flagged
- The “toe” of all “fills” shall be flagged
- All seeps located in critical areas (*i.e. under fills, in roadways, under regrades*) shall be flagged and indicated on all copies of the proposed maps

SUBJECT: Procedure for Completing Field Pre-Inspection Narrative for SMA

DATE: November 1995

The Pre-Inspection Narrative will describe any pertinent, unusual or outstanding items observed during the pre-inspection and state if the on site conditions are consistent with the application. This narrative will become part of the “Facts and Findings”.

The narrative should contain the type of information listed below

GENERAL INFORMATION:

- Company name
- SMA number
- date
- location
- type of operation
- people present

SITE EVALUATION:

- Waivers (*overburden analysis, 300-ft. residences, groundwater monitoring, etc.*)
- Hydrologic and geologic information gathered from site
- Mining and Reclamation Plan to include excess spoil disposal, blasting plan, haulroads, drainage control, and if requested, reduced factor sediment control consistent with site conditions
- Describe site conditions (*slope, wetlands, parks and historic lands information, etc.*) and if mitigation is required
- Comments on adverse environmental impacts or special conditions
- Fish and wildlife information
- Lands Uses
- If applicable, Subsidence Control Plan is consistent with site conditions

OTHER AFFECTED AGENCIES COMMENTS

SUBJECT:	Procedure for Permitting of Coal Preparation Facilities
DATE:	November 1995

Coal preparation plants are defined under Section 38-2-2.20 of the Rules and Regulations.

Coal loadout facility is any facility which is used to load coal for transportation and is not included under the definition of a coal preparation plant.

All coal preparation plants require a permit under Chapter 22, Article 3 regardless of their distance from the mine site.

The only sites which do not require a permit are coal loadout facilities as defined above. However, these sites shall be required to obtain an NPDES permit where there is a point source discharge.

Any facility which physically (including crushing, sizing or sieving) or chemically (even if with water only) processes coal is required to obtain an Article 3 reclamation permit.

This policy is also in the I & E Handbook, Series 3

SUBJECT: Facilities or Structures Used in Common

DATE: February 15, 1994

Applicants for new mining permits or revisions to existing permits which propose to jointly use mining-related facilities or structures permitted on adjacent operations, will conform to the following policy.

The plans of a facility or structure (i.e., haulroad, drainage structure, etc.) that is to be shared by two or more separately permitted mining operations may be made a part of each application or may be included in one permit application and referenced in the other applications. Each permittee shall be required to bond the facility or structure unless the permittees proposing to share it agree to another arrangement for assuming their respective responsibilities. A copy of this written agreement must be made a part of each application and shall at a minimum specify the respective bonding responsibilities of each party (to include a bond release procedure) for the facility or structure to be commonly used.

The Secretary may approve such an agreement where it is demonstrated that all regulatory requirements for the facility or structure will be met.

SUBJECT: Permit Amendments

DATE: March 5, 1998

According to Article 22-3-19(b)(3), “Any extension to an area already covered by the permit, except incidental boundary revisions, shall be made by application for another permit. If the permittee desires to add the new area to his or her existing permit in order to have existing areas and new areas under one permit, the Secretary may so amend the original permit”. These two statements are intended to authorize amendments to existing permits, when the public notice and performance requirements for coal removal are satisfied, that allow new and existing areas to be placed under one permit. As a result, permit amendments are permissible under the following criteria.

The permit amendment application will consist of a surface mine application (MR-4) with “AMENDMENT” written on the front in bold letters. The application for the new area is subject to all procedures and requirements applicable to applications for original permits under this article. All sections of the MR-4 including filing fees, public notices and recalculation of site specific bond for total area (original and new area) will be required. The only sections or information that may be referenced and not included are the sections which are identical to the original permit. The amendment, as outlined in Article 22-3-19(b)(3), will be restricted to extensions of mining area contiguous to the original permit area (not including haulroads). Amendment acreage will be limited to no more than 35% of the original permitted acreage. Variances of the 35% limit may be approved by the Secretary on a site specific basis. The type of mining must be continued as approved in the original permit. Since amendments become part of the original permit, release provisions will be incorporated and processed with the original permit.

There are advantages to allowing this, both to industry and regulatory authorities. Many mining complexes comprising of multiple permit numbers would be under one permit. The savings in paperwork and time required to complete and file paperwork would be substantial. Additionally, it would facilitate reclamation of abandoned sites contiguous to active permits and provide for more effective mining in the case of newly discovered reserves. All of the laws and regulations would apply to amendments, therefore, no law or regulation is compromised.

SUBJECT:	Section T of SMA Form
DATE:	May 23, 2000
Approval:	Mike Mace, Chief, Office of Explosives and Blasting John Ailes, Deputy Chief, OMR

The Office of Explosives and Blasting plans to become more involved in permit review of Section T of the SMA Form once they have a field staff in place. Until that time, the following additional requirements should be addressed in Section T of all surface mining applications (SMA) with 200 acres or more or any SMA that will form a 300 acres or more mine site when combined with contiguous permits, to comply with 22-3-13a (now pre-blast survey requirements):

- The proposal map or the blasting map should designate any and all areas where blasting will occur.
- The proposal map or the blasting map should contain both the ‘1/2 mile from the permit boundary’ radius and the “0.7 mile from all area where blasting will occur” radius. The farthest limit of the combination of these radiuses encloses the area where owners and residents must receive pre-blast surveys and annual notification of the blasting schedule and warnings.
- The list of owners and residents (we used to call this the ‘list of 1/2 mile residents/owners’) must include each and every structure’s owner (and tenant where applicable) within the combined 1/2 and 0.7 mile radiuses.
- Each structure on the list of owners and residents must be shown on the blasting map or the proposal map, with a number corresponding to the list of owners and residents. Every structure on the map, within the pre-blast area, must be identified.

Incidental Boundary Revisions or Permit Amendments that bring a permit up to the 200 acres or more should also address the items listed here. Only applications that clearly state that there will be no further blasting on the permit are exempt from these requirements.

All other requirements of Section T of the SMA form must still be addressed as usual.

SUBJECT:	Y Permit – Underground Workings in WV With No Surface Disturbance in WV
DATE:	January 18, 2001
Approval:	John C. Ailes, Chief

This is the procedure for underground mining operations extending into West Virginia from a surrounding state but having no surface disturbance in West Virginia. These types of operations are permitted in another state and only the underground workings are within the West Virginia border. West Virginia needs to be aware of these underground mining operations as they are subject to law and regulations like any other mining permit and have the same potential problems.

An application that proposes this type of situation is called a “Y” permit and will be tracked in ERIS as a type “WHY” application. A “Y” prefix is added to the application number once the application has a SMA number.

The SMA form will be used and the following sections are required: A-1, A-2, A-3, D-1 (with copy), E-1, Section I, Section J, Part III General Applicant Information, Section M, Section S, Section U, Section X and Section Y. Additional sections may be required, if applicable, at the discretion of the field office permit supervisor. A \$1,000.00 filing fee and a full 51-day advertisement will be required. A copy of the permit approval from the surrounding state must also be included in the application to verify that the applicant does have a valid permit.

Upon review and approval, an approval letter (sample attached) will be prepared for signature in headquarters. As stated in the approval letter, yearly updates on the progress of the mining will be required to be submitted to the regional I & E Supervisor. The updates should include a Progress Map. Copies of the updates will be required for the region and headquarters files.

(INSERT LETTERHEAD)

DATE

Applicant Name

Address

City, State Zip Code

RE: Application Y-0000-00

Dear Applicant:

The above referenced application has been approved for underground mining area in West Virginia from a mine with surface disturbance permitted in (STATE). Yearly updates, on the progress of mining in West Virginia, will be required. Submit these to the Inspection and Enforcement Supervisor of the (Regional Office). If any surface disturbance or discharge of water occurs, a new surface mine application and/or NPDES application will be required.

If you have any questions regarding this matter, please contact this office or the (Regional Office).

Sincerely,

Assistant Chief of Permitting

cc: (Regional Field Office)



west virginia department of environmental protection

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Bob Wise, Governor
Stephanie R. Timmermeyer, Cabinet Secretary
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MEMORANDUM

TO: DMR Staff
FROM: F. Joseph Parker, Acting Director
DATE: November 10, 2004
SUBJECT: Coal Bed Methane

The West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA) covers, among other things, surface disturbances associated with coal mining. Accordingly, sites for coal prospecting boreholes and degasification of coal mines are to be covered by applicable mining permit. However, jurisdiction over exploration for coal bed methane and production wells for coal bed methane (CBM) gas is not subject to WVSCMRA.

Specifically, WVSCMRA applies where coal seams are being processed (burned, heated, liquefied, etc.) in situ to extract the coal itself in a gaseous or liquid state and where degasification holes are solely for the purpose of ventilating an underground mine.

At the point these degas holes become CBM production wells they are no longer covered under WVSCMRA. If there is a WVSCMRA permit, the area, including the road to the well, can be deleted from the permit by changing the post mining land use and applying for release on the areas to be used. This would be similar to the process outlined in the I & E Handbook, Series 12, Page 16.

This memo applies only to WVSCMA. Other permits may be required such as groundwater protection, oil and gas or air quality to name a few.

Promoting a healthy environment.